

AMENDED IN SENATE AUGUST 7, 2002  
AMENDED IN SENATE JUNE 27, 2002  
AMENDED IN SENATE JUNE 12, 2002  
AMENDED IN SENATE MAY 21, 2002  
AMENDED IN ASSEMBLY APRIL 16, 2002  
AMENDED IN ASSEMBLY APRIL 8, 2002  
AMENDED IN ASSEMBLY MARCH 21, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2012**

**Introduced by Assembly Members Frommer and John Campbell**

February 15, 2002

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An act to add Section 116.6 to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2012, as amended, Frommer. Insurance.

Existing law defines automobile insurance to include any warranty or guaranty that promises service, maintenance, parts replacement, repair, money, or any other indemnity in the event of loss or damage to a motor vehicle or any part thereof from any cause.

This bill would exclude from that definition a warranty issued by a manufacturer or provider of vehicle protection products covering the theft of a vehicle. The bill would require a warrantor to file certain information with the Insurance Commissioner and would impose other

related requirements. The bill would authorize the commissioner to issue a stop order against a warrantor that is acting in violation of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 116.6 is added to the Insurance Code, to  
2 read:

3 116.6. (a) Notwithstanding Section 116, a warranty issued by  
4 the warrantor of a vehicle protection product shall constitute an  
5 express warranty, as defined in Section 1791.2 of the Civil Code,  
6 and shall not constitute automobile insurance if the warrantor  
7 complies with all of the following requirements:

8 (1) The warrantor maintains an insurance policy with an  
9 admitted insurer providing coverage for 100 percent of the  
10 warrantor's obligations under the warranty. The insurance policy  
11 shall allow the warrantyholder to make a direct claim for payment  
12 from the insurer upon the failure of the warrantor to pay any  
13 covered claim within 60 days after a complete proof-of-loss has  
14 been filed with the party designated in the warranty. In addition,  
15 all of the following shall apply:

16 (A) The warrantor shall file with the commissioner a copy of  
17 the insurance policy. At any time, a warrantor may have on file  
18 with the commissioner only one active policy from one insurer.

19 (B) The insurer's liability under the policy shall not be negated  
20 by a failure of the warrantor, for any reason, to report the issuance  
21 of a warranty to the insurer or to remit moneys owed to the insurer.

22 (C) No policy cancellation by an insurer shall be valid unless  
23 a notice of the intent to cancel the policy is filed with the  
24 commissioner not less than 30 days prior to the effective date of  
25 the cancellation, or, in the event that the cancellation is due to  
26 fraud, material misrepresentation, or defalcation by the  
27 administrator warrantor, not less than 10 days prior to that date.

28 (D) In the event an insurer cancels a policy that a warrantor has  
29 filed with the commissioner, the warrantor shall do either of the  
30 following:



1 (i) File a copy of a new policy with the commissioner, before  
2 the termination of the prior policy, providing no lapse in coverage  
3 following the termination of the prior policy.

4 (ii) Discontinue acting as a warrantor as of the termination date  
5 of the policy until a new policy becomes effective and is accepted  
6 by the commissioner.

7 (2) The warrantor does not use the words insurance, casualty,  
8 surety, mutual, or any other words descriptive of the casualty,  
9 insurance, or surety business or deceptively similar to the name or  
10 description of any insurance company or casualty or surety  
11 company in the vehicle protection product name or warranty or in  
12 any advertising or other materials provided to prospective  
13 purchasers.

14 (3) The warranty has been issued to a customer that is insured  
15 under a comprehensive vehicle insurance policy for the vehicle  
16 covered by the warranty agreement.

17 (4) The warranty is in writing and provides all of the following:

18 (A) The benefits are limited to the difference between the  
19 actual cash value of the stolen vehicle and the vehicle's  
20 replacement cost, temporary vehicle rental expenses,  
21 reimbursement for insurance policy deductible, and registration  
22 fees and taxes on a replacement vehicle or a fixed amount for those  
23 benefits.

24 (B) A statement that the warrantyholder shall be entitled to  
25 make a direct claim against the insurer covering the obligations of  
26 the warranty upon the failure of the warrantor to pay any covered  
27 claim within 60 days after a complete proof-of-loss has been filed  
28 with the party designated in the warranty.

29 (C) A disclosure stating clearly the name, address, and  
30 telephone number of the insurer covering the obligations of the  
31 warrantor.

32 (D) A toll-free telephone number established and operated by  
33 the warrantor for the warrantyholder to call for questions about the  
34 warranty or the procedures to file a claim.

35 (E) A statement that clearly indicates the terms of the warranty,  
36 whether new or used cars are eligible for the vehicle protection  
37 product, the method for calculating the benefits paid and provided  
38 to the warrantyholder, and the procedure for filing a claim under  
39 the warranty.

1 (F) A disclosure in 10-point type or larger that reads as follows:  
2 “This agreement is a product warranty and is not insurance. It is  
3 not subject to state insurance laws but is subject to state law  
4 concerning warranties.”

5 (G) A disclosure in 10-point type or larger that reads as follows:  
6 “To be eligible for this warranty, the warrantyholder must have  
7 comprehensive insurance coverage on the vehicle that is protected  
8 by the ~~anti-theft~~ *antitheft* device.”

9 (5) The benefit is payable upon the theft of the vehicle, as  
10 defined in the warranty, and subject to the satisfaction of the  
11 procedural proof of claim requirements of the warranty.

12 (b) For purposes of this section, the following definitions shall  
13 apply:

14 (1) “Warrantor” means the manufacturer or provider of a  
15 vehicle protection product who, under the terms of a vehicle  
16 protection product warranty, is the contractual obligor to the  
17 purchaser of a vehicle protection product.

18 (2) (A) “Vehicle protection product” means a vehicle  
19 protection device, system, or service that is installed on, or applied  
20 to, a vehicle, is designed to deter the theft of a vehicle, and includes  
21 a written warranty that provides if the product fails to deter the  
22 theft of the vehicle, that the warrantyholder shall be paid specified  
23 incidental costs by the warrantor as a result of the failure of the  
24 device, system, or service to perform pursuant to the terms of the  
25 warranty.

26 (B) For purposes of this section, “vehicle protection product”  
27 shall also include alarm systems, window etch products, body part  
28 marking products, steering locks, pedal and ignition locks, fuel  
29 and ignition kill switches, and electronic, radio, and satellite  
30 tracking devices.

31 (c) The commissioner may issue a stop order pursuant to  
32 Section 12921.8 to a warrantor who is in violation of the  
33 requirements of this section.

34 (d) A warrantor shall have the burden of proving that a claim  
35 filed in compliance with the terms and conditions of the warranty  
36 is not covered by the warranty. A warrantor shall have the burden  
37 of proving that a claim settlement amount fulfills the promises  
38 contained in the warranty.

39 (e) *The requirements of this section shall not apply under either*  
40 *of the following conditions:*

1     *(1) The warrantor is a manufacturer of motor vehicles, as*  
2     *defined pursuant to Section 672 of the Vehicle Code, or a*  
3     *distributor of motor vehicles, as defined pursuant to Section 296*  
4     *of the Vehicle Code.*

5     *(2) The warranty only provides for the repair or replacement of*  
6     *the vehicle protection product subsequent to a mechanical or*  
7     *electrical breakdown of the vehicle protection product.*

8     *(f) Nothing in this section is intended to affect any pending*  
9     *litigation.*

